



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N157; FWS–R6–ES–FF06E23000]

Endangered and Threatened Wildlife and Plants; Permits

Safe Harbor Agreement and Candidate Conservation Agreement with Assurances for the Colorado Pikeminnow, Razorback Sucker, Roundtail Chub, Flannelmouth Sucker, and Bluehead Sucker in the Middle Duchesne River Watershed, Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Associated Water Users of the Duchesne and Strawberry Rivers (DSWUA) for an enhancement of survival permit (permit) pursuant to the Endangered

Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (SHA) for the Colorado pikeminnow and razorback sucker, and a proposed Candidate Conservation Agreement with Assurances (CCAA) for the roundtail chub, flannelmouth sucker, and bluehead sucker in the middle Duchesne River watershed, Utah.

DATES: We must receive comments no later than **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Address all written comments to “Myton CCAA/SHA Comments,” by mail to Utah Field Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119, or by facsimile to 801–975–3331, or by e-mail to Myton_CCAA_SHA_comments@fws.gov. Documents can be viewed online at www.fws.gov/utahfieldoffice/myton_ccaa_sha.html.

FOR FURTHER INFORMATION CONTACT: Larry Crist, Utah Field Office Supervisor, at 801–975–3330. If you use a telecommunications device for the deaf, you may call the Federal Information Relay Service at 800–877–8339. Documents can be viewed online at www.fws.gov/utahfieldoffice/myton_ccaa_sha.html.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from the DSWUA for a permit pursuant to section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.) The permit application includes a

proposed SHA for the Colorado pikeminnow (*Ptychocheilus lucius*) and razorback sucker (*Xyrauchen texanus*), and a proposed Candidate Conservation Agreement with Assurances (CCAA) for roundtail chub (*Gila robusta*), flannelmouth sucker (*Catostomus latipinnis*), and bluehead sucker (*Catostomus discobolus*) in the middle Duchesne River watershed, Utah.

The purposes of the SHA and the CCAA are for the Service to join with the DSWUA, the Utah Division of Wildlife Resources (UDWR), the Ute Tribe, and participating non-Federal water users (Participating Water Users) to provide instream flows for five listed and sensitive fish species, and to construct a fish passage structure at the Myton Diversion on the Duchesne River in a manner that is consistent with the Service's Policy on Candidate Conservation Agreements with Assurances (64 FR 32726), the Service's Policy on Safe Harbor Agreements (64 FR 32717), and other applicable regulations. This SHA/CCAA has two conservation goals. The first is to allow water managed by the Department of the Interior to provide instream flows for the covered species by bypassing local water users' canals. The second is to construct and operate a fish passage structure at the Myton Diversion, allowing native fish species to access approximately 38.5 miles of now-inaccessible habitat. These two goals will increase the quantity and quality of habitat for the five listed and sensitive fish species within their historic range.

The SHA/CCAA project area is the wetted areas of the Duchesne River between Myton and Knight Diversions, the wetted areas of the Strawberry River between the confluence with the Duchesne River and Starvation Dam, all wetted tributaries to these two rivers

with confluences above Myton Diversion and below Starvation Dam or Knight Diversion, and the entirety of the canal systems that have intake facilities between the Myton diversion, Starvation Dam, and the Knight Diversion.

We have made a preliminary determination that the proposed SHA/CCAA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for our preliminary determination is contained in an Environmental Action Statement. We are accepting comments on the permit application, the proposed SHA and CCAA, and the Environmental Action Statement.

The CCAA portion of this agreement will cover three non-listed species of special concern in the State of Utah: The flannelmouth sucker, the roundtail chub, and the bluehead sucker. Under a Candidate Conservation Agreement with Assurances (CCAA), participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing or candidates for listing under the Endangered Species Act of 1973, as amended (the Act), or those species that may become candidates. Candidate Conservation Agreements with Assurances, and the subsequent permits that are issued pursuant to section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.), encourage private and other non-Federal property owners to implement conservation efforts for species by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property, if that species becomes listed under the Act in the future. Candidate Conservation Agreement with

Assurances permit application requirements and issuance criteria are found in 50 CFR 17.22(d) and 17.32(d).

This proposed CCAA represents a significant milestone in the cooperative conservation efforts for native species in the Duchesne River and is consistent with section 2(a)(5) of the Act, which encourages creative partnerships among public, private, and government entities to conserve imperiled species and their habitats. As identified in our CCAA Final Policy (64 FR 32726), and regulations at 50 CFR 17.22, to enter into a CCAA and issue a permit and assurances, we must determine that the conservation measures and expected benefits, when combined with those benefits that would be achieved if it is assumed that similar conservation measures were also implemented on other necessary properties, would preclude or remove the need to list flannelmouth sucker, bluehead sucker, and roundtail chub. Consistent with the CCAA policy, meeting the CCAA standard does not depend on the number of acres enrolled, and adoption of the CCAA and enrollment of property owners does not guarantee that listing will be unnecessary. Through a separate finding, we have determined that this CCAA meets the standard specified in the CCAA policy and regulations.

The SHA portion of the agreement will cover two federally listed species: The Colorado pikeminnow and the razorback sucker. As described in our Safe Harbor Agreement Final Policy, we must determine that the effect of the proposed voluntary conservation measure for a species covered by a SHA would produce a net conservation benefit to the species. Net conservation benefits must contribute to the recovery of the covered species. This

contribution towards recovery may vary and may not be permanent. The benefits to the species depend on the nature of the conservation measures, the activities to be undertaken, where they are undertaken, and their duration. We conclude that this SHA meets the SHA standard, because the conservation actions improve habitat conditions, support a larger forage base, and provide connectivity to new habitat. Specifically, the proposed SHA would contribute to the recovery of the Colorado pikeminnow and razorback sucker by contributing to Management Action A-1 (Provide flows necessary for all life stages of Colorado pikeminnow and razorback sucker to support recovered populations) and Management Action A-2 (Provide passage for Colorado pikeminnow and razorback sucker within occupied habitat to allow adequate movement and, potentially, range expansion) as described in the “Colorado Pikeminnow Recovery Goals” and “Razorback Sucker Recovery Goals.”

This SHA/CCAA will provide protection and incentives to enrolled Participating Water Users to allow DOI water to bypass their canals in support of fish habitat and to support federally protected species colonizing new habitat in the vicinity of their irrigation canals. Given the legal mechanisms concerning water development in the State of Utah, conservation flows would not be possible in the Duchesne River basin without the cooperation of local water users. The local water users, in order to facilitate recovery and avoid further restrictions on water development, have agreed to assist in bypassing water downstream for use as fish habitat. This SHA/CCAA formalizes a process where local water users allow fish conservation water to bypass their canal intakes, thus providing higher flows for fish species.

Secondly, a fish passage structure at the Myton Diversion will allow native fish downstream of the Diversion (both listed and nonlisted) to access a higher proportion of their native habitat for breeding, feeding, and sheltering. Specifically, it will allow native fish downstream of the diversion to enter into the approximately 38.5 miles of newly accessible habitat. These individuals can then reproduce with individuals found upstream (facilitating genetic mixing), forage in habitats that are currently unavailable to them, and extend their home range to a larger area (providing additional habitat in times of stress, satisfying migratory needs, and offering rearing and refuge habitat that is largely unaffected by certain problematic nonnative species).

When determining whether to issue the permit, we will consider a number of factors and information sources, including biological information, any public comments received, and the application requirements and issuance criteria for CCAAs and SHAs contained in 50 CFR part 17.22(d) and part 17.32(d). We will also evaluate whether issuance of the permit complies with section 7 of the Act by conducting an intra-Service consultation. The results of this consultation, in combination with the above findings, regulations, and public comments, will determine whether or not we issue the permit. The proposed SHA/CCAA also provides Participating Water Users with regulatory assurances, that in the event of unforeseen circumstances, we would not require additional conservation measures or the commitment of additional land, water, or resource use restrictions beyond the level obligated in the proposed SHA/CCAA, without the consent of the Participating Water User and the DSWUA.

We have made a preliminary determination that the proposed SHA/CCAA and permit issuance are eligible for categorical exclusion under NEPA. The basis for this determination is the Environmental Action Statement, which is available for public review (see ADDRESSES).

If you wish to comment on the proposed SHA/CCAA and associated documents, you may submit your comments to the Service (see ADDRESSES). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations at 40 CFR 1506.6. If we determine that the requirements are met, we will sign the both the proposed SHA and the CCAA and issue a permit under section 10(a)(1)(A) of the Act to the Applicants for take of the covered species in accordance with the terms of the SHA and the CCAA. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Authority

The Service provides this notice under section 10(c) of the Act and implementing regulations for NEPA (40 CFR 1506.6; 43 CFR 46).

Dated: June 23, 2014.

**Larry Crist,
Field Supervisor,
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Salt Lake City, Utah.**

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